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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,194	12/23/2005	Jurgen Stetter	710270-030	4116
7590 Robert L Stearns Dickinson Wright 38525 Woodward Avenue Bloomfield Hills, MI 48304			EXAMINER LEE, GILBERT Y	
			ART UNIT 3673	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/06/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,194	<b>Applicant(s)</b> STETTER ET AL.	
	<b>Examiner</b> Gilbert Y. Lee	<b>Art Unit</b> 3673	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-19,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-19,21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/17/07 has been entered.

### ***Claim Objections***

2. Claims 12-19, 21, and 22 are objected to because of the following informalities: Claim 12 claims portions and not layers. It is recommended to the applicant to claim separate plates or layers instead of portions because two different portions can be taken from a single layer. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "the recessed region has a larger surface in cross-section than said opening." It is unclear to the examiner as to how an opening would have a surface. For the purposes of this examination, the examiner is interpreting the claim to be claiming "the recessed region has a larger surface in cross-section than the cross-section of said opening."

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 12-15, 17, 18, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Weiss et al. (US Patent No. 5,727,791).

Regarding claim 12, the Weiss et al. reference discloses a cylinder head gasket (1) for an internal combustion engine (Col. 1, Lines 9-15), insertable for the sealing of components having at least one T-junction (Fig. 2), said gasket having at least one function portion (1'), at least one distance portion (5), and at least one seal element (12) provided in the region of the T-junction (Fig. 4) wherein the distance portion has at least one recessed region extending less than completely through said distance portion (e.g. top curved portion of element 5 accommodating element 12) to a seal engaging bottom surface (e.g. surface of element 5 in contact with elements 12), said recessed region receiving a portion of said seal element (Fig. 4).

Regarding claim 13, the Weiss et al. reference discloses the seal element protruding outwardly from the recessed region in the direction of at least one of the sealed components (Fig. 4).

Regarding claim 14, the Weiss et al. reference discloses the distance portion in the region of the seal element being associated with at least one functional portion (Fig. 4), said functional portion having an opening (e.g. 2 in Fig. 4) sized to receive said seal element therethrough in detached fashion (Col. 4, Lines 36-41).

Regarding claim 15, the Weiss et al. reference, as best understood, discloses the recessed region having a larger surface (e.g. surface of element 6 at 10) in cross-section than the cross-section of said opening (Fig. 10).

Regarding claim 17, the Kubouchi et al. reference discloses the recessed region being generally oval in form (Fig. 5 and Fig. 7).

Regarding claim 18, the Kubouchi et al. reference discloses the seal element being partially supported on a boundary region of the distance portion surrounding the recessed region (Fig. 4).

Regarding claim 21, the Kubouchi et al. reference discloses a hollow channel (e.g. 2) in open communication with an opening (Fig. 4) and the seal element being partially received in said channel (Fig. 4).

5. Claims 12-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Combet et al. (US Patent No. 6,371,489).

Regarding claim 12, the Weiss et al. reference discloses a cylinder head gasket (Fig. 1) for an internal combustion engine (Col. 1, Lines 6-7), said gasket having at least one function portion (2), at least one distance portion (3), and at least one seal element (13) wherein the distance portion has at least one recessed region extending less than completely through said distance portion (e.g. e.g. left slot 10 in element 3 in Fig. 3) to a seal engaging bottom surface (e.g. surface of left slot 10 in element 3 which element 13 is in contact with), said recessed region receiving a portion of said seal element (Fig. 3). Note that the gasket of Combet et al. is **capable of** sealing a T-junction.

Regarding claim 13, the Combet et al. reference discloses the seal element protruding outwardly from the recessed region in the direction of at least one of the sealed components (Fig. 3).

Regarding claim 14, the Combet et al. reference discloses the distance portion in the region of the seal element being associated with at least one functional portion (Fig. 3), said functional portion having an opening (e.g. left slot 10 in element 2 in Fig. 3) sized to receive said seal element therethrough in detached fashion.

Regarding claim 15, the Combet et al. reference, as best understood, discloses the recessed region having a larger surface (e.g. surface of left slot 10 in element 3 in Fig. 3) in cross-section than the cross-section of said opening (Fig. 3).

Regarding claim 16, the Combet et al. reference discloses at least a part of the recess being provided above the recessed region (Fig. 3) and being essentially parallel thereto (Fig. 3).

Regarding claim 17, the Combet et al. reference discloses the recessed region being generally oval in form (Fig. 1 or Fig. 2).

Regarding claim 18, the Combet et al. reference discloses the seal element being partially supported on a boundary region of the distance portion surrounding the recessed region (Fig. 3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss et al. in view of Teranishi et al. (US Pub. No. 2001/0024018 A1).

Regarding claim 19, the Weiss et al. reference discloses the invention substantially as claimed in claim 12.

However, the Weiss et al. reference fails to explicitly disclose the seal element being arranged in the recessed region without contacting boundaries of the recessed region.

The Teranishi et al. reference, a cylinder head gasket including a sealing element, discloses arranging a sealing element to be in contact with the boundaries of a recessed region (Fig. 6) or arranging a sealing element to not be in contact with the boundaries of a recessed region (Fig. 8).

It would have been obvious to one of ordinary skill in the art at the time of the invention to arrange the sealing element of the Weiss et al. reference to not be in contact with the boundaries of a recessed region in view of the teachings of the Teranishi et al. reference in order to permit deformation radially outwardly and/or inwardly (Teranishi et al., para. [0045]).

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss et al. in view of Kubouchi et al. (US Patent No. 5,544,901).

Regarding claim 22, the Weiss et al. reference discloses the invention substantially as claimed in claim 12, including the sealing element being made of plastic (Col. 4, Lines 20-24).

However, the Weiss et al. reference fails to explicitly disclose the sealing element being made of silicone.

The Kubouchi et al., a cylinder head gasket including a sealing element, discloses that a sealing element can be made of resin or silicone rubber.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the sealing element of the Weiss et al. reference with silicone rubber in view of the teachings of the Kubouchi et al. reference in order to provide a material that is more malleable.

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Combet et al. in view of Kubouchi et al. (US Patent No. 5,544,901).



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Regarding claim 22, the Combet et al. reference discloses the invention substantially as claimed in claim 12, including the sealing element being made of elastomer (Col. 2, Lines 65-67).

However, the Combet et al. reference fails to explicitly disclose the sealing element being made of silicone.

The Kubouchi et al., a cylinder head gasket including a sealing element, discloses that a sealing element can be made of resin or silicone rubber.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the sealing element of the Combet et al. reference with silicone rubber in view of the teachings of the Kubouchi et al. reference in order to provide a material that is more malleable.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 12-19, 21 and 22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gilbert Y. Lee whose telephone number is 571-272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

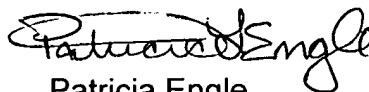
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571)272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GL

February 28, 2007

A handwritten signature in black ink, appearing to read "Patricia Engle", written in a cursive style.

Patricia Engle  
Supervisory Examiner  
Tech. Center 3600